

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
January 6, 2021**

The Millard County Planning Commission met on Wednesday January 6th, 2021 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT:

John Nye.....Planning Commissioner
Demar IversonPlanning Commissioner
Bob Rogers.....Planning Commissioner
Peter GreathousePlanning Commissioner
Erin SorensonPlanning Commissioner
David Sturlin Planning Commission Chairman
Joyce Barney Planning Commission Vice Chairman

EXCUSED: Adam Richins..... Millard County Planner

ALSO PRESENT:

Angi Meinhardt..... Secretary
Dean DraperMillard County Commissioner
Denton Peterson..... Deputy County Attorney
Daniel C. Brown.....Applicant
Brent M. Cook..... Black Rock Renewable Energy
Darin Juncker..... New Element Construction
Jason Willoughby..... Millard County Resident
Noel SanyalKern River Gas Transmission
Scott MilesKern River Gas Transmission
Tim Bliss Millard County Resident
John Willoughby Millard County Resident
Jack Willoughby..... Millard County Resident
Shane Rowley.....Applicant
Camille Rowley.....Applicant
Shane AllgoodKern River Gas Transmission
Brian Clever Millard County Resident

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED to each member of the Planning Commission, posted at the Millard County Offices in Delta, the Public Safety Building in Fillmore, and the Main Street Courthouse in Fillmore, posted on the Utah Public Notice Website and the Millard County Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, Utah as required by law, the following proceedings were had:

1. WELCOME, CALL TO ORDER – Chairman David Sturlin

Planning Commissioner Chairman David Sturlin called the meeting to order at 6:30 pm. He welcomed all present and introduced the new Planning Commission members, Erin Sorenson, Peter Greathouse and Bob Rogers.

2. PLANNING COMMISSION REORGANIZATION

Commissioner Joyce Barney discussed changing the Rules of Order. Attorney Denton Peterson stated it will need to be on an agenda to change the order.

Commissioner Joyce Barney made a MOTION to table this until the next meeting. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

3. PUBLIC INPUT

No public input at this time.

4. PUBLIC HEARING— Text Amendment Application #Z-2020-051 amending the Table of Uses and Use Definitions in Title 10, Chapter 25 of the Millard County Zoning Ordinance regarding Agricultural Products Processing, creating a new use definition for Honey Extracting Facility, and establishing permitting requirements for Honey Extraction Facilities in each zoning district. Daniel C. Brown, Applicant

Commissioner Peter Greathouse made a MOTION to open public hearing for application #Z-2020-051. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative. Public hearing opened at 6:44 pm.

Applicant Daniel Brown approached the Commission and gave a description of his proposal. Applicant stated that there is a typo on the application. The table of use on page 2 is incorrect.

There was discussion of the current code and to help identify the extracting process.

Jason Willoughby approached the Commission. He is a neighbor to the applicant. He stated Daniel Brown is a very good neighbor and is in favor of this amendment and would like to give applicant Daniel Brown his support.

John Willoughby approached the Commission and stated they also support Daniel Brown on his future endeavor and business.

Commissioner Joyce Barney made a MOTION to close public hearing. Commissioner Erin Sorenson SECONDS the motion. Voting was unanimous in the affirmative. Public Hearing Closed.

5. REVIEW and POSSIBLE RECOMENDATION – Text Amendment Application #Z-2020-051 amending the Table of Uses and Use Definitions in Title 10, Chapter 25

of the Millard County Zoning Ordinance regarding Agricultural Products Processing, creating a new use definition for Honey Extracting Facility, and establishing permitting requirements for Honey Extraction Facilities in each zoning district. Daniel C. Brown, Applicant

Commissioner Peter Greathouse discussed the correct level of permits on the proposed Table of Uses. R1 should be a C-1, SS should not be not a permitted use and LI should be a P-1.

There was discussion if selling pollen would be part of the extraction. Applicant stated that is part of the extraction. It does not need to be specified in the code as you can do that anywhere.

Commissioner John Nye stated this is a great amendment and it's good to be proactive.

Commissioner Demar Iverson made a MOTION to give a favorable recommendation to the BOCC on Text Amendment Application #Z-2020-051 amending the Table of Uses and Use Definitions in Title 10, Chapter 25 of the Millard County Zoning Ordinance based on the recommendation including the following:

1. Consistency of the proposed amendment with the county General Plan.
2. The effect of the proposed amendment on the well-being of the county.
3. The effect of the proposed amendment on the public health, welfare, and safety.
4. The effect of the proposed amendment on the interests of the county, and its residents
5. The ability of the county, and other service providers, as applicable, to provide all infrastructure, facilities, and services required by the uses and activities allowed by the proposed amendment.
6. Compatibility of the proposed uses and activities with nearby and adjoining properties.
7. The suitability of the properties for the uses and activities proposed.
8. The effect of the proposed amendment on the existing goals, objectives, and policies of the General Plan, and listing any revisions to the county's Land Use Ordinances, and any other ordinances and resolutions required to implement the amendment. (ord. 12-12-04, 12-04-2012)

Along with the corrections noted in the table. Commissioner Peter Greathouse SECONDED the motion. Voting was unanimous in the affirmative.

6. REVIEW and POSSIBLE APPROVAL—Application # Z-2020-054 for a Non-Plat Subdivision near 4000 S 2500 W (Oasis) dividing a 1.37-acre parcel and a 1.9-acre parcel from a 40-acre parcel. Shane Rowley, Applicant

Commissioner Dean Draper stated he is standing in for the planner as he is absent at this time. He gave some notice of the BOCC public hearings and what they have to do to comply with the notifications for these public hearings.

Applicant Shane Rowley approached the Commission and gave a description of his proposal.

There was discussion of water rights. Applicant stated the water and the natural gas is already available on the property they just need to be hooked up.

Commissioner Demar made a MOTION to approve application Z-2020-054 for a Non-Plat Subdivision as proposed. Commissioner Bob Rogers SECONDED the motion. Voting was unanimous in the affirmative.

7. PUBLIC HEARING—C-2 Conditional Use Permit Application # Z-2020-052 for a Solar Energy System (Major) on 687 acres of property located approximately 8 miles southwest of Clear Lake. Black Rock Renewable Energy, LLC, Applicant

Commissioner Joyce Barney made a MOTION to open public hearing for a C-2 Conditional Use Permit Application # Z-2020-052 for a Solar Energy System (Major). Commissioner Bob Rogers SECONDED the motion. Public Hearing opened at 7:16 pm.

Applicant Brent Cook approached the Commission. He stated he is 50% of the voting share holders.

Applicant stated he will not be seeking tax abatement for this property. They intend to pay property tax for property.

Applicant went over phase 1 of the development plan. Phase 1 is fenced. After construction phase 2, 3 and 4 will also be fenced.

Applicant Brent Cook stated they will be complying with all the conditions and recommendations in the staff report.

Applicant stated they have 3 potential buyers for the power at this time.

There was discussion of about 65 employees during the construction. After construction it will not be a high employment but it will be great paying employment.

There was discussion of the road conditions. Black Rock Renewable Energy will be paying to fix the road but it won't be fixed until spring.

There was discussion of the amount of water that will be needed for onsite cleaning. Applicant stated he is mostly worried about the dust mitigation. They will be looking into the water issue at a later time. They are aware of wells that are out in that area and they are still looking at those and also water from Graymont. The lease states if they do end up getting a well it will stay with the property.

There is a reclamation bond posted with this project.

There was discussion of recommendation 11. Insurance is already being addressed with their state permits.

There was discussion of the road maintenance agreement. Applicant stated that the understanding was that the County would be maintaining the road but it will be paid for by the applicant.

There was discussion of the site security plan that has to be approved by the Millard County Sheriff's Office.

There was discussion of the electrical transmission right-of-ways.

Applicant confirmed that phase one is now complete and are now cleaning up some of the equipment.

Commissioner Peter Greathouse made a MOTION to close the Public Hearing on application #Z-2020-052. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative. Public Hearing closed at 7:43 PM.

8. REVIEW and POSSIBLE RECOMMENDATION— C-2 Conditional Use Permit Application # Z-2020-052 for a Solar Energy System (Major) on 687 acres of property located approximately 8 miles southwest of Clear Lake. Black Rock Renewable Energy, LLC, Applicant

There was discussion of some changes to the reasonable conditions.

Commissioner Peter Greathouse made a MOTION to make a favorable recommendation to the BOCC on application # Z-2020-052 for a C-2 CUP for a Solar Energy System (Major) with the Recommendations listed in the staff report as corrected and added.

2. Basis for issuance of a Conditional Use Permit:

- a) The proposed use is a Conditional Use within the Zoning District as identified in Appendix A, Table of Uses.
- b) The proposed use is allowed within the Zoning District as identified in Chapter 8.
- c) The proposed use complies with all requirements of the Zoning District, including all minimum area, setbacks, height, and all other requirements as applicable.
- d) The proposed use will be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
- e) The property on which the use is proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties.
- f) The proposed use complies with all site plan and building requirements, as provided and required by this Ordinance all other

applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.

g) The proposed use complies with all applicable dedication requirements of the County and provides the necessary infrastructure, as required.

h) Such use will not, under the conditions required, be detrimental to the health, general welfare and safety of persons or injurious to property or improvements of the immediate area or the County as a whole. (Ord.12-12-04, 12-04/2012)

3. Approve the Permit with the following reasonable conditions:

1. **The Facility.** The applicant shall provide an accurate map of the Facility depicting the surveyed site boundary and legal description.

2. **Limited Approval.** Conditional Use Permit #Z-2020-052 shall apply only to the property identified by the detailed legal description.

3. **Permitting Requirements.** All conditions and requirements of approval of all governmental permits, licenses, and/or orders required for the operation of the Facility, including, but not limited to, the plans and protocols referenced are hereby established as conditions of approval of Conditional Use Permit #Z-2020-052 and are incorporated herein by this reference as conditions of approval. Future modifications to these plans and protocols will be done in consultation with the County.

4. **Notices and Reporting.** Applicant shall provide a copy of all reports, materials, and other correspondence concerning the construction and operation of the Facility to the BOCC, County Attorney, and County Planner at the time such reports, materials and other correspondence are provided to the governmental agencies regulating the Facility.

5. **Public Safety and Emergency Response.** Prior to construction and on an annual basis thereafter, Applicant shall consult with the County to establish and update detailed public safety, fire and emergency medical response protocols for the Facility which shall be subject to approval by the County and such approval shall not be unreasonable withheld.

6. **Road Maintenance Agreement.** Prior to construction, a Road Maintenance Agreement be established between the County & the Applicant that addresses issues of possible County road deterioration as a result of construction equipment used during construction. Such agreement shall be reviewed and revised, as necessary, by the County Attorney and approved by the BOCC. This Agreement shall include provisions for adequate road maintenance and repair bonding for any road deterioration caused by construction, acceptable to the County Attorney, and all other performance guarantees and guarantee periods, as determined necessary by the County Attorney, and approved by the BOCC.

7. Site Security Plan. Applicant develop a Site Security Plan and an Emergency Planning and Response Plan in consultation with the Millard County Sheriff's Office. This Plan shall address Facility security measures and County Public safety communication protocols. This Plan shall be discussed with representatives of the County and the County shall have the ability to comment on the provisions of the Plan. A copy of the Plan as approved by the applicable regulatory authority shall be provided to the Millard County Planner's Office and include fencing and lighting at the facility location.

8. Fire Prevention Program. Applicant develop a Fire Prevention Program in consultation with the appropriate Federal, State and Local agencies. This Plan shall outline fire prevention practices and fire related emergency management protocols. This Plan shall be discussed with representatives of the County and the County shall have the ability to comment on the provisions of the Plan. A copy of the Plan as approved by the applicable regulatory authority shall be provided to the Millard County Planner's Office.

9. Facility Reclamation. Applicant's post bonds to ensure full reclamation of property, including removal of surface improvements, re contouring, and revegetation.

10. Warning signage. All necessary Facility warning signage of a size, design and locations as required for the construction and operation of the Facility by all applicable laws, ordinances, and regulations shall be provided.

11. Insurance. Applicant shall provide a list of all Applicant insurance coverage to the BOCC and Millard County Attorney, with such insurance coverage required to remain in place and valid until the Facility is abandoned or reclaimed. Applicant shall provide updated lists from time to time as needed to reflect changes in Applicant insurance coverage(s).

12. The County Planner and Applicant. Communicating and coordinating together, shall have the obligation and responsibility to ensure that all conditions of Conditional Use Permit Z-2020-052 are met and complied with.

13. Necessary Conditional Use Permit Modifications. The BOCC reserves the right to initiate necessary modifications, amendments, and additions to this Conditional Use Permit #Z-2020-052 upon a finding that such modifications, amendments, and additions are necessary to protect the public health, welfare, and/or safety of the County. All such modifications, amendments and additions shall comply with the procedures of the County, in effect and as applicable, for the application and consideration of a Conditional Use Permit Amendment Application.

14. Amendments. All Changes and modifications to this Conditional Use Permit, and not determined to be a minor facility

plan modification that can be approved by the County Planner shall be considered by the Planning Commission and BOCC as an amendment to the CUP and shall be required to comply with all procedures of the County, in effect and as applicable, for the application and consideration of a Conditional Use Permit Amendment Application.

15. Permits Runs with Land. In accordance with state law, this Conditional Use Permit shall run with the land, and the obligations and benefits of the CUP shall, respectively, be binding on and inure to the benefit of all successors and assigns of Applicant in the ownership or development of any portion of the Project.

16. Incorporation by Reference. All information, permits, licenses, attachments, and all other information referenced herein are hereby incorporated in to this Conditional Use Permit by reference.

17. Inconsistencies and Ambiguities. Any inconsistencies or ambiguities in the materials and information provided to the County by Applicant and any ambiguities or inconsistencies in the Conditional Use Permit shall be interpreted and applied in favor of the County.

18. Recordation. Upon the approval and execution of Conditional Use Permit Z-2020-052, this Permit shall be recorded in the Office of the Millard County Recorder, with all Attachments being on file in the Office of the County Clerk and Office of the County Planner, with copies of the recorded document provided to the BOCC, County Attorney, County Planner, and Applicant.

19. Conditional Use Permit Review and Expiration. The approval of this Conditional Use Permit #Z-2020-052 shall be reviewed on or before December 21, 2025 at which time, if a completed Building Permit Application with the applicable fees has not been submitted and approved and a valid Building Permit issued for any above ground structures that require a permit under the applicable provisions of the international Building Code, the BOCC may extend the Conditional Use Permit approval, but in no case later than to December 31, 2026, upon a recommendation to do so from the County Planner and County Attorney, and with a finding by the BOCC of extenuating circumstances beyond the control of Applicant. If construction at the Site is not commenced by December 31, 2026, Conditional Use Permit #Z-2020-052 shall expire and be void.

20. Water Plan. Applicant must provide the county with a plan for dust control and applicants plan for adequate water.

Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

9. PUBLIC HEARING—C-2 Conditional Use Permit Application # Z-2020-053 for a Gas Pipeline Right Of Way (Federally Regulated) between Kern River's mainline near Holden to a delivery point 10 miles north of Delta, east of the Intermountain Power Plant. Kern River Gas Transmission Company, Applicant

Commissioner Joyce Barney disclosed that she is one of the land owners listed on the application.

Commissioner Erin Sorenson made a MOTION to open a Public Hearing for application Z-2020-053. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative.

Noel Sanyal with Kern River approached the Commission and gave a description of their proposal.

Noel Sanyal also handed out a draft of changes they would like to make on the recommendations and reasonable conditions.

There was discussion of some changes the applicants would like to make on the staff report such more clarification on the Basis for Issuance on c) and f) Attorney Peterson stated that the basis for issuance cannot be changed without an application to change the code. Kern river will proceed without amending the code.

Shane Allgood with Kern River Gas Transmission approached the Commission and gave more comment to the Fire Management plan.

There was discussion on the inspections of the pipeline. Scott Miles, Director of engineering for Kern River Gas Transmission gave more description of the inspections on the pipelines.

Commissioner Peter Greathouse stated he thinks this is pre mature application. Scott Miles stated that it will just speed up the process and flush out the problems and things that they can't commit to.

Commissioner Bob Rogers made a MOTION to close public hearing on application Z-2020-053. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

10. REVIEW and POSSIBLE RECOMMENDATION— C-2 Conditional Use Permit Application # Z-2020-053 for a Gas Pipeline Right Of Way (Federally Regulated). Kern River Gas Transmission Company, Applicant

Commissioner Peter Greathouse stated we should continue with the dialog and conversation openly.

There was discussion and verification if this project had some public scoping meetings. Noel Sanyal stated they have had public scoping on this project both in Fillmore and Delta and the notices for those were posted in the local newspaper.

Commissioner Erin Sorenson made a MOTION to make a favorable recommendation to the BOCC on application Z-2020-053 for a C-2 CUP for a Gas Pipeline Right of Way without the requested changes on the Basis for Issuance Of A Conditional Use Permit a-h but with our attorney reviewing the recommended changes on the Recommended Action and Reasonable Conditions:

- a. The Application for a Conditional Use Permit, with all its materials, information, and commitments associated with the proposed project be incorporated by reference as conditions of approval.
- b. Project Boundary;
 - i. The Gas Pipeline Right of Way (Federally Regulated) shall comply with the legal description of the route as generally identified in the Final certificate adopted by the Federal Energy Regulatory Commission (FERC). Prior to the commencement of any construction the preliminary legal description for the Gas Pipeline Right of Way (Federally regulated) centerline shall be provided to the County Planner for filing and reference during the construction period.
 - ii. During the construction period, the Conditional Use Permit shall allow deviations of up to 200 feet the preliminary centerline legal description or as otherwise set forth in the FERC certificate to accommodate avoidance of natural, cultural, and other resource features discovered during construction.
 - iii. At the completion of construction, the final route alignment for the Gas Pipeline Right of Way (Federally Regulated) the “as-built” final centerline alignment in shapefile format for the Gas Pipeline Right of Way (federally Regulated) shall be provided to the County Planner for filing and be used to identify the route on the Major Utilities Corridor Official Map.
- c. A detailed pre-construction Site Plan shall be provided to the County Planner clearly identifying the location of all material facilities and structures, including all accessory structures and staging areas, and materially complying with the general layout of the Site Plan as set forth in the FERC certificate.
- d. A courtesy pre-construction site inspection be conducted by County Staff and/or County representative following the surveying and staking of the Gas Pipeline Right of Way.
- e. Prior to construction a copy of all required Federal & State Permits and Licenses be provided to the County Planner to remain on file in the Office of the County Planner
- f. A County Road Maintenance Agreement be established between the County & Kern River Gas Transmission Company to address issues of possible County road deterioration as a result of construction equipment used during construction. This Agreement shall include provisions for adequate road

- maintenance and repair for any road deterioration caused by Kern River during construction, acceptable to the County Attorney, and approved by the BOCC>
- g. A Traffic Management Plan for all County roads and streets and Municipal streets used or impacted during construction be provided to the County Planner prior to construction.
 - h. Kern River shall notify all affected private property owners and livestock permittees a minimum of fifteen (15) calendar days prior to the commencement of any construction, with such notice identifying the Construction Schedule. Any material deviation(s) from the Construction Schedule shall be provided to all affected private property owners and livestock permittees in a timely manner. Kern River shall work cooperatively with private property owners and livestock permittees to minimize conflicts with grazing and ranching operations. A Kern River contact and contact phone number and email address shall be provided to the County Planner and to all affected property owners and permittees to facilitate communication and coordination with all owners and permittees.
 - i. A Site Security Plan, approved by the County Sheriff's Office, be provided to the Office of the County Planner and County Sherriff prior to construction. Included in the Site Security Plan shall be provisions that address Facility/Site emergency and normal shutdown procedures and communication protocols consistent with regulations of the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation.
 - j. A Storm Water Control Plan, including all necessary erosion control measures, as required and approved by the Utah Department of Environmental Quality, be provided to the Office of the County Planner
 - k. An environmental assessment as required and approved by FERC be provided to the Office of the County Planner.
 - l. A pre-construction Fire Management Plan be formulated, in consultation with Federal, State, and Local agencies, as applicable. Such Plan shall be approved by the County Fire District and shall be provided to the Fire District prior to construction and will remain on file in the Office of the County Planner and the County Fire Marshall during construction of the project. The Fire Management Plan shall identify all defensible space for fire protection in accordance with the County's Wildland-Urban Interface Code.
 - m. The approval of Conditional Use Application shall be reviewed five years after approval of the permit, at which time if pipeline construction has not occurred, the BOCC may extend the Conditional Use Application approval to one year later upon a recommendation to do so from the County Planner and County Attorney. The Conditional Use Application approval may be further extended by the BOCC to 6 months later upon a recommendation from the County Planner and County Attorney, and with a finding by the BOCC of extenuating circumstances beyond the control of Kern River. If construction is not commenced within the allotted time period the Conditional Use Application approval shall lapse and the Conditional Use Permit shall expire and be void.
 - n. Kern River shall include in all construction contracts/agreements that all construction workers must reside in appropriate and designated housing

facilities and locations and no temporary construction worker housing shall occur in any undesignated areas or remote locations of the County.

- o. The BOCC shall identify and designate a contact person to act as the County representative in all administrative matters required herein and for the efficient administration of the Conditional Use Permit and for coordination and communication with Kern River and the various County Offices and Staff.
- p. The County's representative and Kern River communicating and coordinating together, shall have the obligation and responsibility to ensure that all conditions of the Conditional Use Application approval and the accompanying Conditional Use Permit are met and complied with.
- q. Prior to any construction occurring in Millard County, a Pre-Construction meeting shall be held with all necessary County Officials and Staff and other Federal and State Agency Officials and independent service providers, as determined necessary by the County representative.
- r. At least monthly during the construction period, and at other times as determined necessary by the BOCC thereafter, an authorized representative of Kern River shall provide the BOCC, at a regular meeting, an "in-person" project progress and construction update.
- s. Prior to construction, all fees and charges applicable to the review, approval, and issuance of the Kern River Conditional Use Permit shall be paid in full.

Commissioner Bob Rogers SECONDED the motion. Commissioner Peter Greathouse Opposed as he thinks it is pre mature. He is not opposed to the project. Motion passed.

11. OTHER BUSINESS

No other business at this time.

12. APPROVAL OF MINUTES –December 2, 2020 Planning Commission Meeting.

The proposed minutes of the regular Commission meeting held December 2, 2020 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Joyce Barney made a MOTION to approve the minutes for December 2, 2020 as corrected. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

13. POSSIBLE CLOSED MEETING Pursuant To Utah Code Annotated Section 52-4-204 & 205

14. ADJOURNMENT

Commissioner Demar Iverson made a MOTION to adjourn. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

Dated this ___ day of _____ 2021
David Sturlin, Chairman
Millard County Planning Commission